

The Manufacturing Machinery and Equipment exemption does not apply to hand tools, supplies, coolants, lubricants, adhesives, or solvents, items of personal apparel, coal, fuel oil, electricity, natural gas, artificial gas, steam, refrigerants or water. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

May 27, 2008

Dear Xxxxx:

This letter is in response to your letter dated April 17, 2008, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am writing in hopes that you can help me clear up a matter we are having with a couple of our customers. We normally do not charge these customers sales tax because they both fall under the manufacturing machinery and equipment exemption. Our main product lines include industrial tooling and coolant for machinery. Last year the first customer began requesting that we correct our invoice to include sales tax on coolant we sold them. Then they would turn around and send a Manufacturer's Purchase Credit and reduce the tax when they paid the invoice. I have discussed this with them and asked why they are doing it this way and I am told that they were audited and the auditor told them this is what they need to do.

I am totally confused by this process because it is causing a lot of additional work for us. Plus our system doesn't like it when we try to adjust the sales tax more than once leaving another problem. But I was willing to deal with it until a second customer has begun to do the same thing. The product we sell to this customer is tools, not coolant. They also tell me their auditor told them how to do this. The first customer is in CITY1 and the second is in CITY2. So now I am worried the volume of this type of activity will continue to grow. Can you please explain to me why if a product is deemed [sic] exempt under the manufacturing exemption they would be required to handle them

with a [sic] MPC? We are running around in circles trying to accommodate this process and it just seems very illogical to me.

I would appreciate any type of help you can provide for me.

DEPARTMENT'S RESPONSE:

In general, Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. The manufacturing process is the production of articles of tangible personal property or assembling different articles of tangible personal property by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some existing material or materials into a material with a different form, use or name. These changes must result from the process in question and be substantial and significant. See Section 130.330(b)(2).

The exemption does not apply to "hand tools, supplies (such as rags, sweeping or cleaning compounds), coolants, lubricants, adhesives, or solvents, items of personal apparel (such as gloves, shoes, glasses, goggles, coveralls, aprons, masks, mask air filters, belts, harnesses, or holsters), coal, fuel oil, electricity, natural gas, artificial gas, steam, refrigerants or water." See section 130.330(c)(3). Consumable supplies such as oxygen, acetylene, and argon, do not qualify for the exemption. See subsection 130.330(c)(3). However, pneumatic hand tools or electric powered hand tools used primarily in manufacturing or assembling may qualify for the exemption.

The State of Illinois provides a manufacturer's purchase credit in addition to the exemption for manufacturing machinery and equipment. See 86 Ill. Adm. Code 130.331. Purchasers of manufacturing machinery and equipment that qualifies for the manufacturing machinery and equipment exemption earn a credit in an amount equal to a fixed percentage of the tax which would have been incurred under the Use Tax or Service Use Tax. 35 ILCS 105/3-85; 35 ILCS 110/3-70. The credit may be used to satisfy Use Tax or Service Use Tax liability that is incurred on the purchase of production related tangible personal property that does not qualify for the manufacturing machinery and equipment exemption. Please note that the amount of manufacturer's purchase credit that can be applied to a purchase of production related tangible personal property is limited to the State rate of tax incurred on that property (6.25%). Any local taxes incurred on the purchase of production related tangible personal property remain the responsibility of the purchaser.

"Production related tangible personal property" includes all tangible personal property used or consumed in a production related process by a manufacturer in a manufacturing facility in which a manufacturing process described in Section 2-45 of the Retailers' Occupation Tax Act takes place, and all tangible personal property used or consumed by a manufacturer or graphic arts producer in research and development regardless of use within or without a manufacturing or graphic arts production facility. See 35 ILCS 105/3-85. The Department's regulation for the credit provides examples of tangible personal property that will be considered production related: supplies and consumables used in a manufacturing facility, including fuels, coolants, solvents, oils, lubricants, cleaners, adhesives, and hand tools, protective apparel, and fire and safety equipment used or consumed in a manufacturing facility. See 86 Ill. Adm. Code 130.331(b)(4). This means that the credit may be applied to the State tax due for purchases of these items. See 86 Ill. Adm. Code 130.331(b)(1).

A manufacturer or graphic arts producer must provide a Manufacturer's Purchase Credit Certificate (ST-16-C or purchaser's own form) when using Manufacturer's Purchase Credit (MPC) on

a purchase of production related tangible personal property, unless the same information is included in the manufacturer's or graphic arts producer's purchase order. See subsection (f) of 86 Ill. Adm. Code 130.331.

It is the responsibility of the retailer or serviceman making the sale of production related tangible personal property to properly document the receipt of MPC on that sale through the use of MPC certificates. Retailers and servicemen are required to keep those certificates in their books and records. See subsection (f)(1) of Section 130.331. Retailers and serviceman may require that separate MPC certificates be provided for each invoice or purchase in order to properly document those sales.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Richard S. Wolters
Associate Counsel

RSW:msk